

SENATE BILL No. 646

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-5; IC 5-8-1-37.

Synopsis: Removal from office for conviction of a felony. Provides that a public officer convicted of a felony is removed from office by operation of law and may not receive salary or other remuneration for the public office from the time the finder of fact publicly announces the verdict of conviction for the felony or the court accepts the public officer's plea of guilty or nolo contendere to the felony.

Effective: July 1, 2005.

Mrvan

January 24, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 646

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section does not apply
3 to a candidate for federal office.

4 (b) A person is disqualified from holding or being a candidate for
5 an elected office if ~~the person~~ **any of the following apply:**

6 (1) **The person** gave or offered a bribe, threat, or reward to
7 procure the person's election, as provided in Article 2, Section 6
8 of the Constitution of the State of Indiana.

9 (2) **The person** does not comply with IC 5-8-3 because of a
10 conviction for a violation of the federal laws listed in that statute.

11 (3) **The person** has:

12 (A) entered a plea of guilty or nolo contendere to; or

13 (B) been convicted of;

14 a felony (as defined in ~~IC 35-50-2-1~~; **IC 5-8-1-37**).

15 (4) **The person** has been removed from the office the candidate
16 seeks under Article 7, Section 11 or Article 7, Section 13 of the
17 Constitution of the State of Indiana.

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(5) **The person** is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate. ~~or~~

(6) **The person** is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

SECTION 2. IC 5-8-1-37 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: Sec. 37. (a) As used in this section:

(1) "Felony" ~~means any~~ **refers to a crime: punishable by imprisonment for more than one (1) year in any correctional facility.**

(A) **defined as a felony by Indiana law;**

(B) **comparable to a felony in Indiana under the law of any other state, territory, or country; or**

(C) **defined as a felony under the laws of the United States.**

(2) "Public officer" ~~means any person; an individual,~~ elected or appointed, who holds ~~any a~~ state, county, township, city, or town office.

(b) ~~Any A~~ **A public officer convicted of a felony during his the public officer's term of office: shall:**

(1) ~~he~~ **is removed from office by operation of law when: he is sentenced**

(A) **the finder of fact publicly announces the verdict of conviction for the felony; or**

(B) **the court accepts the public officer's plea of guilty or nolo contendere to the felony; and**

(2) **may not receive any salary or remuneration from the time: he is sentenced**

(A) **the finder of fact announces the verdict of conviction for the felony; or**

(B) **the court accepts the public officer's plea of guilty or nolo contendere to the felony.**

(c) If the conviction is reversed, vacated, or set aside, and the **public officer's** term has not expired, the officer shall:

(1) be reinstated in office; and

(2) receive any salary or other remuneration ~~which he the public officer~~ **would have received had he the public officer** not been removed from office.

(d) If the conviction is reversed, vacated, or set aside, and the **public**

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1 officer's term has expired, ~~he~~ **the public officer** shall receive any salary
2 or other remuneration ~~which he~~ **the public officer** would have received
3 had ~~he~~ **the public officer** not been removed from office.

4 (e) Every vacancy in a public office caused by the removal of a
5 public officer under this section shall be filled as provided by law. If a
6 convicted public officer is reinstated, the ~~person~~ **individual** filling the
7 office during the appeal shall cease to hold the office.

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